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6 **MONTANA TWENTY-SECOND JUDICIAL DISTRICT COURT**
7 **BIG HORN, CARBON, AND STILLWATER COUNTIES**

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10 **IN RE STANDING MASTER**
11 **PROCEEDINGS IN THE TWENTY-**
12 **SECOND JUDICIAL DISTRICT COURT,)**

Cause No. SB 23-__

Judge: **Matthew J. Wald**

ORDER REGARDING STANDING
MASTER PROCEEDINGS

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14 In 2016, the Court issued its *Order Establishing Standing Master for the Twenty-Second*
15 *Judicial District Court*, whereby it established a standing master for the district for the purpose
16 of “reliev[ing] workload and improv[ing] service to litigants in all types of cases”. (*Order*, p. 1).
17 Montana’s Legislature has subsequently amended the statutes relating to standing masters and
18 their powers and duties. See H.B. 322 (“An act generally revising laws related to standing
19 masters...”). As such, the Court issues the instant order updating the 2016 Order for the purpose
20 of specifying and limiting the standing master’s powers as required by H.B. 322. This Order
21 shall be posted on the district court’s and/or the judicial branch’s website(s) in accordance with
22 the new law. See § 3-5-124(1), MCA.

23 **1. Purpose of Standing Master**

24 The Twenty-Second Judicial District established a Standing Master in order to relieve the
25 District Court’s workload and improve service to litigants in all types of cases by referring
26 selected matters to the Master at the discretion of the presiding District Court Judge. The District
27 does not have a standing order of reference for any category of cases, but rather exercises
28 discretion on each case individually as to whether that case should be referred to the Master.

1 District Court shall attend all contested proceedings before the Master and
2 clerk the proceedings before the Master in the same manner as proceedings
3 before the district court. § 3-5-501, MCA. In cases referred to the Master,
4 the parties shall file with the Clerk of Court all pleadings, motions, briefs,
5 and other filings as customary in the court file for the subject cause. The
6 Master may require that copies of all filings be served on the Master by
7 email or at a designated postal address.

8 (E) Form of Decision. The Master shall file and serve written findings of fact,
9 conclusions of law, and a dispositive order for all contested proceedings.
10 See § 3-5-126(1), MCA; Rule 52(a), M. R. Civ. P. The Master shall file and
11 serve a dispositive written decision and order for all contested proceedings
12 not tried upon the facts.

13 (F) Filing of "Master's Report" and Objections Procedure. As distinct from non-
14 dispositive scheduling, mesne, or other preliminary orders and rulings, an
15 adjudicatory or dispositive order of the Master on a contested proceeding
16 shall constitute the "Master's Report" for purposes of §§ 3-5-125(1) and 3-5-
17 126(3), MCA, thereby triggering the district court review deadline § 3-5-
18 125(2), MCA. Objections to the Master's Report must comply with
19 U.D.C.R. 2 and § 3-5-126(2), MCA. Failure to strictly adhere to substantive
20 rules regarding objections to the Master's Report shall subject the party's
21 objections to adverse summary ruling.

22 (G) Effect/Enforceability of Report as Court Order. Upon filing and except as
23 otherwise expressly stayed by written order of the Master or the court, the
24 Master's Report shall be immediately effective and enforceable as an order
25 of the court subject to subsequent reversal, remand, revision, or
26 supersedence by subsequent written order of the district court upon review
27 of a timely-filed objection. The filing of objections or district court review
28 does not automatically stay or nullify the effect or enforceability of the

1 Master's order. Upon expiration of the objections deadline, the Master's
2 Report shall by operation of law become a final dispositive judgment. If
3 proper and timely objection is made, the district court shall conduct a
4 hearing to review the Master's Report. § 3-5-126(2), MCA.


5 (H) Standard of District Court Review. Upon review of a judgment (Master's Report)
6 of the Master, the district court, after hearing, may adopt the Master's
7 findings and conclusions or order and may modify, reject in whole or in part,
8 receive further evidence, or recommit matter with instructions to the Master.
9 § 3-5-126(2), MCA. The court thus has broad discretion to affirm, reverse,
10 modify, or remand a judgment of the Master. Although the court has
11 discretion to take supplemental evidence, an aggrieved party has no vested
12 right to present supplemental evidence upon judicial review of a judgment of
13 the Master. However, if a party seeks to admit further evidence and the
14 Court denies such a request, the party may make an offer of proof with
15 affidavits and additional proposed exhibits. See § 3-5-126(2), MCA.

16 Except to the extent that it may elect to take supplemental evidence when warranted in
17 the interests of justice, the standard of district court review of the findings of fact of the Master
18 (Master's Report) is whether the findings of fact are clearly erroneous, giving due deference to
19 the broad discretion of the Master to assess the relative credibility of the witnesses and the
20 weight of the evidence. *Patton v. Patton*, 2015 MT 7, ¶ 24, 378 Mont. 22, 340 P.3d 1242;
21 *Maloney v. Home & investment Center, Inc.*, 2000 MT 34, ¶ 28, 298 Mont. 213 994 P.2d 1124
22 (standard of review of judgments of master is same as for lower court judgments); *In re*
23 *Marriage of Swanner-Renner*, 2009 MT 186, ¶ 13, 351 Mont. 62, 209 P.3d 238 (clear error
24 standard requires due deference to the broad discretion of lower tribunal to assess the relative
25 witness credibility of witnesses and weight of the evidence); Rule 52(a), M.R.Civ.P. The
26 standard of review for a Master's conclusions of law is whether the conclusions are correct.
27 *Patton*, ¶ 43.

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DATED this 6th day of June 2023.



cc:

This is to certify that the foregoing was duly served by mail, fax, or email upon the parties or their attorneys of record at their last known address/email.

Done this 8th day of June, 2023
By: Kathryn B. Stratten
COURT ADMINISTRATOR to the HON. MATTHEW J. WALD